

App.F.IX-4]

1924.

File No. 228-24

Previous References.

(Courts)

Ct 5-9-21 (1-3)

Serial Nos. 1-2

Later references.

~~Part B~~

present

GENERAL & REVENUE SECRETARIAT

Serial Nos. 2

✓

Part B for may 1925

SUBJECT

Addendum et Corrigendum to Rule of Practice
no 113 dated 19/6/03. re refund of institution fee
paid in excess by mistake.

G.O. no. 6134 dated 4/5/25.

To the Registrar Chief Court.

Sanctions with slight modifications the addenda
et corrigenda proposed by the Chief Court to Rule
of Practice no. 113 dated 19/6/1903 with a view to
issue one uniform refund certificate for all the
four kinds of refund.

B. Narayan Rao
8/7/25.

GENERAL AND REVENUE SECRETARIAT.

(CS)

NOTES.

File No. 228-26

FILE HEADING.

Addendum et corrigendum to Rule of Practice No. 113 of 19.6.1903 re refund of institution fee paid in excess by mistake.

From

The Mag. & Chief Commr.

C No. 993

Dated 5.2.25.

Received 9.2.25.

Diary No. 8437

Enclos. 3. Spare Copies. ~

Serial No. 1

BRIEF ABSTRACT OF LETTER.

States that the Chief Commr. have decided that a Court has inherent powers under section 151 Civil Procedure Code. to pass an order for refund of institution fee paid in excess by mistake and request sanction to the accompanying addendum et corrigendum to the present Rule of Practice making the necessary changes in the form etc.

NOTES AND ORDERS.

Subd for orders with a draft.

B. K. 10/2/25. 1) I understood that when the question of refunding excess court fees was moving in the R.A. some time ago, the Chief Commr. who were consulted

Serial
No.

given an opinion. Antony to be
present. Ruling. Please put up
with file.

27/3

Subd

3) The question that was discussed in
R.A. was about the refund of excess stamp
paid in appeal memo. The Chief Clerk
who were consulted said that they have
no objection if the Govt. likes to remit and
probably no amendment of the law is required.
Govt. then passed orders that they do not
view with favour the refund of excess stamps
paid in plaint/appeal memo.

4) There is no other file in the subject.

5) Please send for all copies
of the R.P. sample to be
circulated for in which it is
they are not available here.

27/3

Returned under
order of present

6) Send with the copies of the R.P. reports (Nags P 6)

30/3/25

7) The opinion of the Chief Clerk
in the regard to the refund of excess
stamp fee paid on plaint/appeal memo
was given under order of

8) Now what a ruling has been

Serial
No.

has been made with regard to
the refund of the excess court fee
it is kind upon govt.

1) Since the Ch. Ct. have now
ordered that excess court fee paid
on plaints & appeal memos may be
refunded, they propose to consolidate
in one form the refund of the same
all the refunds of court fee stamps
viz. for which there are separable
forms. viz. for refund of the insolvency
fee under Section ^{10, 11 & 12} ~~17~~ of the court
fees Regulation ^{Section 17 of the Civil Courts Regn} the form now used
is ~~99~~ 99 (at page 244 - Civil digest).
and for refund on used probers
fees the form is 99A (at page 245)

There is no form for refund of
excess court fee on plaints or appeal
memos. The chief hence now proposed
to have one form for all the three.

2) They also propose to make
necessary alterations in the rules
of practice no 113 of 19 June 1903 (H: P)
and 89 of 1896. (H: O) -

11) There are indicated certain
amissions & additions in
pencil in the addendum at
Corrigendum to RP 113 of 19.6.1903
& 6-89 of 1896.

Serial
No.

(2) The chief court may be consulted as to the alterations if approved.

hh (eng)

13) The decision of the Chief Court in
Civ. Pet. No. of 1924-25 is in conformity
with the rulings of other Indian High Courts &
is binding on Govt.

14) It, therefore, follows that a ^{new} form for refusal made under Sec 157, should be introduced & give effect to this ruling.

The Chief Comptroller proposes that a single certificate of order of refund instead of four different forms may be introduced. As the Comptroller has no objection to the adoption of the proposed simplification of the work of the Ministerial Staff, the recommendations of the C. C. may be approved.

15th Slight verbal alterations in
pencil are suggested. My ^{perhaps} _{own} ^{be}
affirmed.

1168-128 member

(16) 2 - 2 apr

(17) drop ring on a post
of for a period

9/4

18

9:4

5.4

File No. 228

of 19 *ms*General and Revenue
Secretariat.Serial
No.

Ind with the draft already put up
slightly altered

By 18/4/25 - 20/4/25.

10. Please get the ^{recognition} ~~draft~~
drafts ~~nodendum~~ et corrigendum
neatly typed.

$$\frac{28}{15/4}$$


Ind with the drafts neatly typed

By 17/4/25

1. Draft submitted for approval

(H. B. S.)

$$\frac{28}{22/4}$$

602/25.4

12th member

$$\frac{28}{23/4}$$

The words in the
draft form
be compared
sentimentally
for such as
is a form in
for copy

28/4

27.8

Before issue the copies should
be brought up for comparison

$$\frac{28}{29.4}$$

Serial
No.

2

To the Regr. Chief Cont. No. P 6134 of 4.5.25
Sanctions with slight modifications
the Addenda et Corrigenda proposed by the
Chief Cont. to Rule of practice No. ~~113~~ 113
of 19.6.1903 with a view to issue one
uniform Refund Certificate for all the
four kinds of refund.

B

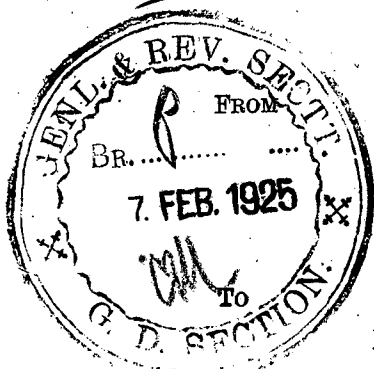
11/5

33794

3437 X
C
C/S 228-24-1
CHIEF COURT OF MYSORE

Bangalore, dated 5th February 1925.

28/2/24
C No. 993
m 25-1 Encls



A. SREENIVASARAGAVACHARI, Esq., B.A., B.L.,
Registrar, Chief Court of Mysore.

B. Nagappa, Esq., Bar-at-Law,
Secretary to the Government of Mysore,
Local and Legislative Departments,
Bangalore.

SIR,

I am directed to state that the Chief Court in Civil Petition No. 1 of 1924-25 (copy enclosed) has held, following the decisions of other High Courts in British India, that a Court has inherent powers under section 151 of the Civil Procedure Code to pass an order for refund of institution fee paid in excess by mistake.

At present refunds are ordered under section 17A, Civil Courts Regulation, sections 10 to 12 of the Court Fees Regulation and under Process Service rules where the stamps paid for service of processes are not utilised, and there are already in existence three separate forms of refund certificates (Vide page 51 of the Civil Digest and the following pages). As the introduction of a fourth form of refund certificate under section 151 of the Civil Procedure Code would rather tend to be cumbrous, the question of providing a single certificate of order of refund in all classes of cases was considered in consultation with the Comptroller. The Comptroller has no objection to the introduction of a single comprehensive refund certificate form to apply to the several cases of refund of court fees. It is not proposed to interfere at present with the other rules regarding refund and the registers to be maintained. But instead of having four separate forms for refunds,

it is proposed to issue one uniform certificate equally applicable to all the four cases.

I am accordingly to request that Government may be pleased to accord their sanction to the accompanying addendum et corrigendum framed in the matter.

I have the honour to be,

S i r,

Your most obedient servant,

Heeminsalopouch
5/2/25

R e g i s t r a r .

Tks.

36

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

Friday, the 22nd day of August
1924.

PRESENT

MR. JUSTICE R. B. PLUMER, OFFG: CHIEF JUDGE,
and

MR. JUSTICE B. SUBBANNA.

Civil Petition No.1 of 1924-25 presented by Mr. A. R. Nageswara Aiyar, advocate for the petitioner S. Krishna Iyer, praying that the excess court fee paid by him (petitioner) on the plaint in Original Suit No.24 of 1916-17 on the file of the Subordinate Judge of Mysore, and on the memorandum of appeal in Regular Appeal No.23 of 1918-19 on the file of the District -- Judge of Mysore, and on the memorandum of appeal in Second -- Appeal No.112 of 1921-22 on the file of this court, may be -- ordered to be refunded to him.

This petition coming on for hearing this day and after hearing the arguments of Mr. A. R. Nageswara Aiyar, advocate for the said petitioner, and Of Mr. K. Shankaranarayana Rao, Government Advocate for Government, the court pronounced the following:-

O R D E R.

Though there is no provision in the Court Fees Act for refund of court fee paid by mistake in excess we think the inherent powers of the court and the provisions of section 151, Civil Procedure Code, fully enable a court to make such a refund when -- common justice demands it. This is also the view taken in several cases in the High Courts in British India, vide

14 Weekly Reports,	page 47.
40 Calcutta,	" 365
46 Indian Cases,	" 271
72 Indian Cases	" 405

We accordingly order the excess amount to be refunded.

Sd/- R. B. Plumer,
Offg: Chief Judge.

Sd/- B. Subbanna,
Judge.

"COPY"

Heerisalojanehu
REGISTRAR.

1696

10
4

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

CIVIL SIDE.

Addendum et Corrigendum dated 1925,

to Rule of Practice No.113, dated the 19th June 1903.

The Chief Court directs that:----

1. in the preamble portion

omit the comma and the word "and" after "1900" and
(a) ^{add} the words "as amended by Regulations VIII
and I of 1924
of 1922, ~~and~~ XVII of 1923" ~~be added~~ after
1900';

*Page 5:1
Civil Side*

(b) "II of 1898"-be deleted and "I. of 1883 as
amended by II of 1898" and of institution
fee paid in excess of legal requirements,
under section 151, Civil Procedure Code,
1911." be added.

x omit (i)

2. The following form of the Refund Cheque be
substituted for the existing forms:-----

my

Serial No.....

ORDER FOR REFUND OF COURT FEE.

(Civil Form No.98).

Order Book No.

Date of Issue.....

Number of suit, appeal or proceedings.

Date of order.....

Amount Rs.....

To whom issued*.....

Under which rule:---

- A. Section 17A, Mysore Civil Courts Regulation.
- B. Sections 10, 11 and 12 of Court Fees Regulation.
- C. Section 151, Civil Procedure Code.
- D. Refunds under Process Rules.

J U D G E.

Note:---

*After the name enter whether petitioner, plaintiff or defendant, etc.

Serial No

CERTIFICATE FOR REFUND OF COURT FEE.

(Civil Form No.98).

IN THE COURT OF

Suit No. of 19...-19....

Appeal No. of 19...-19....

Plaintiff

Defendant

Appellant

Vs.

Respondent

Petitioner

Opponent

This certificate is hereby granted to.....the party above-named authorizing the payment to him or to his order by the officer in charge of the Treasury at.....of the sum of Rupees.....being refund of court fee ordered under rule specified below:--

- B. Refund of fee under sections 10, 11 and 12 of the Court Fees Regulation.
- A. Refund of half the fee under section 17A of the Civil Courts Regulation.
- C. Refund under section 151, Civil Procedure Code of (institution fee paid in excess of legal requirements)
- D. Refund under Process rules.

Given under my hand and the seal of this Court this.....day of.....192....

J U D G E.

- N.B.:--1. If the payment of this amount is not claimed within fifteen days, it will not be recognised at the Treasury.
2. In the case of refund under D, the unused stamps will be affixed to this cheque, duly punched and cancelled.

Page
316
Carl Byrd

3. In the heading of the Refund Register No. XII, delete the word 'and' after '1883', put a comma instead and delete the full stop after "1900" and add the words "as amended by Regulations VIII, of 1922 and ~~XVII~~ ^{and I of 1924} of 1923" and under section 151, Civil Procedure Code 1911."

The procedure laid down in other respects regarding the issue of refund certificates under sections 10, 11 and 12 of the Court Fees Regulation and under section 17A of the Civil Courts Regulation will apply mutatis mutandis in the case of refunds under section 151, Civil Procedure Code, also.

Heemisar Powell
5/2/25

R e g i s t r a r .

Tks.

X XVII 1923 is an emergency Regulation (Court fees)
we can I 1924 - Court fees
may be put up

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

CIVIL SIDE.

Addendum et corrigendum dated.....1925
to Rule of Practice No.89 dated 15th December
1896.

Pages
134 & 135
Civil Dept

by court { ^{No 98} The Chief Court directs that the form of
cheque prescribed for the refund of fees (under sections
10, 11 and 12 of the Court Fees Regulation, 17A of the
Civil Courts Regulation and 151, Code of Civil Procedure)
in addendum et corrigendum dated 1925
to Rule of Practice No.113 dated 19th June 1903, be used
for the refund of unused process stamps also, in supersees-
sion of the existing form of cheque ^{No 99 A} ~~for such~~ refunds.

Heerasingh Rao
Registrar.

Bo

Tks.

157
228-24-2-157

Proceedings of the Government of H.H.
the Maharaja of Mysore.

R e a d:--

Letter No.C.993/24-5 dated 5th
February 1925 from the Registrar, Chief
Court, stating that the Chief Court has held
that a court has inherent powers under
section 151 Civil Procedure Code to pass
an order for refund of institution fee paid
in excess by mistake and that they are of
opinion that if to the existing three forms
another form for this purpose is introduced
it would become cumbrous and ~~suggest~~ that a
single form of order for refund may be
introduced after abolishing the present 3
forms for refund and requesting sanction
to certain addenda et corrigenda to Rules
of practice Nos.113 and 89 dated 19-6-1903
and 15-12-1896 respectively.

Order, No.

Dated, Bangalore the

The addenda et corrigenda with slight
modifications (as herewith enclosed) are
sanctioned.

28/2
22/4 For Secy, to Govt. L.L. Depts.

The Registrar, Chief Court.

TD 28

P. 6134 of 4.5.25.

Signed by Mr. B.N.

MB

28/2

#5/9

In the Chief Court of Mysore at Bangalore.
Civil Side.

Addendum et Corrigendum dated 1925.
to Rule of Practice No. 113, dated the 19th June 1903.

Page 57 of the writ book

The Chief Court directs that :-

1. In the preamble portion

(a) Omit the comma and the word " and " after
" 1900 " and add the words " as amended by R
Regulations VIII of 1922, XVII of 1923 and
I of 1924 " ;

(b) " II of 1898 " be deleted and ~~I~~ " I of 1883
as amended by II of 1898 and of institution
fee paid in excess of legal requirements, under
section 151, Civil Procedure Code, 1911 ". be
added.

2. The following form of the refund Cheque be substituted
for the existing forms:-

Serial No.

ORDER FOR REFUND OF COURT FEE.
(Civil Form No.98)

Order Book No.

Date of Issue.

Number of suit, appeal or proceed-
ings.

Date of Order

Amount Rupees

To whom issued

Under which rule:-

- A. Section 17 A, Mysore Civil Courts Regulation.
- B. Sections 10, 11 and 12 of Court Fees Regulation.
- C. Section 151, Civil Procedure Code.
- D. Process Rules.

J u d g e.
Note:-* After the name enter whether petitioner, plaintiff or defendant, etc.

Serial No.

CERTIFICATE FOR REFUND OF COURT FEE.
(Civil Form No.98).

IN THE COURT OF

Suit No. of 19 - 19

Appeal No. of 19 - 19

Plaintiff

Defendant

Appellant

Vs

Respondent

Petitioner

Opponent

This certificate is hereby granted to the party above named authorizing the payment to him or to his order by the officer in charge of the Treasury at of the sum of Rupees being refund of Court Fee ordered under the rule specified below:-

- A. Section 17 A of the Civil Courts Regulation.
- B. Sections 10, 11 and 12 of the Court Fees Regulation.
- C. Section 151, Civil Procedure Code (institution fee paid in excess of legal requirements)
- D. Process rules.

GIVEN UNDER MY HAND AND THE SEAL OF THIS COURT THIS DAY OF 19..

- J u d g e.
- N.B.- 1. If the payment of this amount is not claimed within fifteen days, it will not be recognised at the Treasury.
2. In the case of refund under D, the unused stamps will be affixed to this cheque, duly punched and cancelled.
3. Out of A, B, C and D retain one or more under which refunds are ordered and score out the rest.

page 316

3. In the heading of the Refund Register No.XII, delete the word 'and' after '1883', put a comma instead and delete the full stop after "1900" and add the words "as amended by Regulations VIII of 1922, ~~and~~ XVII of 1923 and I of 1924 and under section 151, Civil Procedure Code 1911."

The procedure laid down in other respects regarding the issue of refund certificates under sections 10, 11 and 12 of the Court Fees Regulation and under section 17A of the Civil Courts Regulation will apply mutatis mutandis to the case of refunds under section 151, Civil Procedure Code, also.

22/4 2m Secy to Govt
L. L. Dey

22/4

18

In the Chief Court of Mysore at Bangalore.
Civil Side.

Addendum et corrigendum dated 1925
to Rule of practice No.89 dated 15th December
1896.

The Chief Court directs that the form of
cheque No.98 prescribed for the refund of fees
in addendum et corrigendum dated 1925
to Rule of Practice No.113 dated 19th June 1903, be used
for the refund of unused process stamps also, in
supersession of the existing form of cheque No.99A.

—
22/4 for Secy to Court
L. & L. Depts